

Article - Business Regulation

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§4.5–705.

(a) Subject to this subtitle a claimant may recover compensation from the Guaranty Fund for an actual loss that results from an act or omission by a registrant as found by the Division or a court of competent jurisdiction.

(b) Before submitting a claim to the Guaranty Fund, a consumer shall:

(1) send a registrant a written notice describing the alleged defect or other claim for which the consumer intends to seek recovery; and

(2) permit the registrant access, during regular business hours, to the consumer's property to inspect, determine the cause of, and remedy the alleged defect or other claim within a reasonable period of time.

(c) (1) (i) If a consumer has a new home warranty security plan, the consumer may also seek recovery from the Guaranty Fund if the consumer has first:

1. filed a claim with the new home warranty security plan; and

2. exhausted the plan's claim process.

(ii) A consumer seeking recovery under subparagraph (i) of this paragraph may not receive more than one recovery for the same actual loss.

(2) A claimant who has also filed a claim with a new home warranty security plan shall include with the claim against the Guaranty Fund:

(i) a copy or description of the claim filed with the new home warranty security plan;

(ii) any documents submitted by the claimant in support of the warranty claim, including engineering or inspection reports;

(iii) any documents submitted on behalf of the home builder or warranty plan in connection with the warranty claim, including engineering or inspection reports;

(iv) disclosure of any recoveries received in connection with the warranty claim; and

(v) if all or part of the warranty claim was denied, a copy of the denial.

(d) (1) The Division may deny a claim if the Division finds that the claimant unreasonably rejected good faith efforts by the registrant to resolve the claim.

(2) In determining whether a claim should be denied under paragraph (1) of this subsection, the Division shall consider whether the claimant provided the registrant with notice and a reasonable opportunity to access and inspect and repair the claimed defect as required under subsection (b) of this section.

(e) The Division may not award from the Guaranty Fund:

(1) more than \$50,000 to one claimant for acts or omissions of one registrant;

(2) more than \$300,000 to all claimants for acts or omissions of one registrant unless, after the Division has paid out \$300,000 on account of acts or omissions of the registrant, the registrant reimburses \$300,000 to the Guaranty Fund; or

(3) an amount for attorney's fees, consequential damages, court costs, interest, personal injury damages, or punitive damages.

(f) A claim against the Guaranty Fund based on the act or omission of a particular registrant may not be made by:

(1) a spouse or other immediate relative of the registrant;

(2) an employee or principal of the registrant; or

(3) an immediate relative of an employee or principal of the registrant.

(g) (1) A claimant may bring a claim against the Guaranty Fund within 2 years after the claimant discovered or, should have discovered the loss or damage or within 2 years after the expiration of the warranty under § 10-204 of the Real Property Article, whichever occurs first.

(2) If a claimant has filed a claim with a new home warranty security plan, a claimant may bring a claim against the Guaranty Fund within 4 months after the claims process of the home warranty security plan is exhausted.

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